

1899.
October 13.

PERERA v. FRANCISCO.

C. R., Panadure, 3,011.

Arbitration and award—Motion by arbitrator to extend time for making award—Civil Procedure Code, s. 683—Validity of award.

Under section 683 of the Civil Procedure Code, the Court has power to extend the time for delivering the award on the motion of the arbitrator himself beyond the period specified in the original order.

ON the 17th March, 1899, the matter in dispute between the parties to this case was by consent referred to the sole arbitration of Mr. Solomon Fernando, who, by the commission issued to him, was required to make his award on or before the 11th April, 1899. On the 14th April the arbitrator moved for an extension of six days' time to file his award, which was allowed.

The arbitrator filed his award on the 20th April, and it was made a judgment of Court.

The award being against the defendant, he appealed on the ground that it was illegal and cannot be acted upon, inasmuch as it was not made and filed on or before the 11th April, in terms of the commission issued to him.

Van Langenberg, for defendant, appellant.

Sampayo, for respondent.

Cur. adv. vult.

13th October, 1899. BROWNE, A.J.—

On the 17th March last the parties agreed to refer the matter in dispute to arbitration, whose award, if made within one month from the date, should be final. On the 20th March commission was issued to the arbitrator, who on 14th April moved for, and was allowed (apparently by the motion paper, for the journal entry is unsigned), six days' extension of time, and filed his award (I believe from the recital in the petition of appeal) on the 20th April. The arbitrator's date of 31st May, on page 65, should apparently be 31st March.

On that day plaintiff's proctor moved that judgment be entered in terms of the award, and the record says, "Mr. Silva consents on behalf of Mr. Dias (defendant's proctor), who is ill." Decree was entered accordingly, and defendant has appealed in person on the ground that the award was not made within the month originally specified.

I am of opinion that the Court had power under section 683 to extend the time for delivering the award on the motion of the arbitrator himself beyond "the period specified in the order." These words, in my opinion, contemplate that the original order has, as section 677 requires, fixed a time reasonable for the delivery of the award, and therefore the specification of a certain date at the first does not preclude the extension of the period.

Therefore, and under section 692, I consider this appeal fails, and must be dismissed with costs.